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The Constitution of Kazakhstan concentrates power in the presidency. President Nursultan Nazarbayev was elected to a 7-year term in a 1999 election that fell far short of international standards. President Nazarbayev was the dominant political figure. The Constitution permits the President to control the legislature and judiciary, as well as regional and local governments; changes or amendments to the Constitution require the President's consent. The law allows the President to maintain certain policy prerogatives and a seat on the Security Council after he leaves office. The Constitution limits Parliament's powers by precluding it from appropriating state money or lowering taxes without executive branch approval, although Members of Parliament (M.P.s) have the right to introduce legislation. Parliamentary elections in 1999 were an improvement over the presidential election, but fell short of the country's commitments as a member of the Organization for Security and Cooperation in Europe (OSCE). Maslikhat elections in September and October were marked by irregularities, and most analysts agreed that non-OSCE compliant electoral legislation disadvantaged opposition candidates. The judiciary remained under the control of the President and the executive branch, and corruption remained deeply rooted.

The Committee for National Security (KNB) is responsible for national security, intelligence, and counterintelligence. The Ministry of Interior (MVD) supervises the police. In September, the President appointed a civilian as Interior Minister for the first time in the country's history. Civilian authorities maintained effective control of the security forces. Members of the security forces committed human rights abuses.

The country undertook significant market-based economic reforms since independence: The Government privatized many businesses and industries, removed restrictions on currency convertibility, and allowed wage rates to be determined by market forces. The population was approximately 14.9 million. The economy was primarily driven by revenue from the country's vast energy and mineral resources. In June, the President signed a new Land Law allowing for private ownership. As of the second quarter, approximately 26.9 percent of the population lived below the minimum subsistence level, compared with 29.4 percent during the same period in 2002. Inflation was 6 percent, and the official unemployment rate was 8.2 percent during the year. Real GDP grew by 9.1 percent during the year.

The Government's human rights record remained poor, and it continued to commit numerous abuses. The Government severely limited citizens' right to change their government and democratic institutions remained weak. Members of the security forces, including police, tortured, beat, and otherwise mistreated detainees on some occasions. Some officials were punished for these abuses, including the first convictions under the 2002 amendment to the criminal code on torture. Prison conditions remained harsh; however, the Government took an active role in efforts to improve prison conditions and the treatment of prisoners. The Government continued to use arbitrary arrest and detention and selectively prosecute political opponents, and prolonged detention was a problem. Amendments to several laws governing the authority of prosecutors further eroded judicial independence. The Government infringed on citizens' privacy rights, and new legislation grants prosecutors broad authority to monitor individuals.

The Government continued to restrict freedom of the press. There were instances when the Government harassed independent media, including the convictions of two prominent independent journalists; as a consequence, some media outlets remained closed and many journalists practiced self-censorship. The Government restricted freedom of assembly and association and limited democratic expression by imposing restrictions on the registration of political parties. Freedom of religion improved during the year. National and regional officials worked to correct incidents when local authorities harassed nontraditional religious groups or their members; as a consequence, such incidents declined significantly during the year. Some human rights observers reported that the Government monitored their activities. Violence against women, including domestic violence, was a serious problem.

Discrimination against women, persons with disabilities, and ethnic minorities remained problems. The Government discriminated in favor of ethnic Kazakhs. Child labor persisted in agricultural areas. Trafficking in persons, primarily teenage girls, was a problem, which the Government took steps to address.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings by the Government or its agents; however, there was at least one report that police used excessive force that led to a person's death. During the first 9 months of the year, the Government reported two deaths in the military that may have been the result of mistreatment but reported no details.

On July 1, off-duty Almaty police officer Bakhyt Krykbayev shot and killed 17-year-old Daniyar Beysov with his service firearm after an altercation on the street. On September 25, Krykbayev was charged with murder, and the Almaty Oblast court convicted Krykbayev of second-degree murder on October 23. The court sentenced him to 10 years in prison, although the prosecutor asked for a first-degree murder conviction and a 19-year sentence.

Daniyar Nagaybayev, a private in the Otar battalion in Zhambyl Oblast (province), died in early May. The press reported that Nagaybayev's sergeant killed him while disciplining him for disobedience. The sergeant allegedly hit Nagaybayev in the throat with the edge of his hand, leading to asphyxiation. The Government launched an investigation of this incident but reported no conclusions.

On June 19, the Prosecutor General again closed the case of the 2001 death of Kanat Beyimbetov, who died in a Turkestan hospital following an alleged beating in the custody of the KNB. The Government reported that Turkestan district KNB officers had violated the law and two officers were fired, but it brought no criminal charges against them. The MVD had previously closed the case, but the Prosecutor General reopened it in 2002.

On March 19, the head of the detention center and a medical assistant were convicted and received 2-year prison terms for criminal negligence in the September 2002 death in police custody of Vladislav Shishov. Two of Shishov's cellmates were arrested in December 2002 for beating him continuously for 4 days. On November 5, one of the cellmates, Ruslan Koturov, was convicted and sentenced to 6 years in prison.

In April 2002, police reported the identity of a suspect in the 2001 killing of Dilbirim Samsakovaya, director of a charitable Uighur foundation and a well-known Uighur community activist; however, no arrest had been made by year's end. Police stated earlier that they believed that the killing was related to Samsakovaya's personal or business dealings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, police at times tortured, beat, and otherwise abused detainees, often to obtain confessions. Prison officials beat and mistreated prisoners; human rights observers reported that beatings and abuse of prisoners increased during the year.

A law commonly referred to as the Humanization of Criminal Justice Law expands the definition of torture and criminalizes the deliberate infliction of physical or psychological suffering by an investigator or other official aimed at extracting a confession. The 2002 law, developed with assistance from human rights groups, also amended the Criminal Code to provide for more extensive use of alternative sentencing by reclassifying punishment requirements for more than 100 crimes.

In August, the first known conviction under the new torture section of the Criminal Code occurred when the Terektin district court (in Western Kazakhstan Oblast) convicted police officers Ruslan Burpiyev and Baurzhan Sarsenov for torturing in 2002 two brothers, Azamat and Zhasulat Sadykov. The police officers received a 2-year suspended sentence, although the maximum sentence for torture not involving grave injury or death under the new law is 5 years' imprisonment. The torture in this case involved beatings and placing a plastic bag over one of the

brothers' head to force a confession. Prosecutors told the media that the officers resorted to torture because they knew of no other way to investigate the crime.

In early December, the Uralsk City Court convicted police officers Yerlan Bisembayev and Dmitriy Topchiy for torturing teenager Maksim Chastukhin in August 2002. The criminal case was opened 1½ months after Bisembayev and Topchiy had broken Chastukhin's back during an interrogation; the two officers were arrested in January. Before the conviction, human rights activists alleged that the court was allowing a senior law enforcement official, the father of one of the defendants, to improperly influence the case. Bisembayev was sentenced to 1-year in prison, Topchiy to 1½ years in prison.

Army personnel continued to subject conscripts to brutal hazing, including beatings and verbal abuse. There were two reported cases of a death resulting from mistreatment in the military (see Section 1.a.). The December 2002 Humanization of Criminal Justice Law strengthened sections of the Criminal Code relating to hazing. The military began providing statistics for the first time during the year on the extent of mistreatment in its ranks. The Main Military Prosecutor reported close to 100 suicides among conscripts during the year. The Army reported that 128 hazing cases were opened during the first 9 months of the year, 13 of which were classified as particularly severe. In the first 6 months of the year, 50 service members were convicted of hazing; and the Government reported that in 2002 military courts convicted 275 individuals of hazing or abuse. No further details were available on the circumstances of any of these cases, the victims involved, or the names of those convicted. The Government continued a training program for military forces on social and legal issues, which included mandatory anti-hazing training, and in September, it established oversight at the Ministry level of psychological services in each army unit.

Prison conditions remained harsh and sometimes life threatening. Mistreatment occurred in pretrial detention facilities and in prisons, and nongovernmental organizations (NGOs) and international organizations reported that abuses of prisoners began to increase after the head of the penitentiary system was replaced in May. Guards were poorly paid and often did not have sufficient experience to supervise large groups of prisoners. Violent crime among prisoners was common. During the year, the number of prisoners declined significantly. At year's end, there were 49,300 prisoners in facilities designed to hold 70,590. At the end of 2002, there were approximately 65,000 prisoners. Much of the decrease was associated with the 2002 Humanization of Criminal Justice Law, which prescribes punishments other than imprisonment for more than 100 crimes.

Human rights groups estimated that approximately one-third of prison administrators were replaced following the appointment of a new head of the prison system in May, after which mistreatment in some prison facilities began to rise. The Ministry of Justice (MOJ) oversees the prison system and took an active role in reforms beginning in 2002 to improve prison conditions, including through an extensive rehabilitation program of facilities, and began an extensive program of human rights training for prison system administrators in each oblast. The training, implemented in conjunction with international organizations, required prison administrators to conduct a gap analysis between international human rights standards and the practices of their facilities by 2004.

In the past several years, the adequacy of prison diets and availability of medical supplies improved. In addition, the Government initiated training programs for prison medical staff. There were 5 tuberculosis colonies and 3 tuberculosis hospitals for prisoners; 6,480 prisoners were housed in the colonies. While the incidence of tuberculosis stabilized, HIV/AIDS was a growing problem. The Government, together with the U.N. Development Program, continued during the year the implementation of a project to prevent HIV/AIDS and other sexually transmitted diseases in penitentiaries.

Prisoners were permitted to have visitors, although the number and duration of visits depended on the security level of the prison and the type of sentence received. This could range from unlimited visits of short- (3 hours) and long-term (up to 3 days) duration for some prisoners to two each of short- and long-term duration a year for prisoners at maximum-security facilities. Prisoners have the right to use telephones and generally were able to do so, although there were reports that prison officials sometimes denied the use of telephones in politically sensitive cases (see Section 1.d.).

Prisoners were held in close proximity, barracks-style facilities; however, a government program to build new correctional facilities and rehabilitate existing facilities continued throughout the year. In April, construction and rehabilitation began on penitentiaries in the Solnechniy village of Eastern Kazakhstan Oblast, the Zhem village in Aktobe Oblast, and the cities of Taraz and Kyzyl-Orda. Plans were finalized, and funds committed, for a new prison facility in Pavlodar designed to hold prisoners sentenced to life terms, although construction did not begin by year's end. Approximately 50 percent of the prison population served their terms in facilities that, contrary to the law, were not near their places of residence.

The prison system under the MOJ consisted almost exclusively of dormitory-style penitentiaries (including general, maximum-security facilities, women's, and juvenile facilities). There were separate facilities for men and women, and juveniles were held separately from adults. There were no special prisons for political prisoners. The pretrial detention system has a capacity of 14,900 inmates. Conditions and treatment in pretrial facilities remained harsh, although the Ministry actively participated in training seminars on international human rights standards for the directors of such facilities. There was also one maximum-security prison (Arkylyk).

The MVD continued to administer both pretrial detention facilities and police detention facilities, which were separate from facilities for convicted criminals administered by the MOJ (see Section 1.d.). Although the Minister of Interior stated in 2002 that such facilities were a key tool of investigators in uncovering crimes and therefore should stay under the MVD, the President announced in September that pretrial detention facilities would also be transferred to the MOJ, and the process was nearly complete by year's end. In anticipation of their move to the MOJ, pretrial detention facilities began, on a limited basis, to implement standards similar to those in the prison system during the year. In July, the first visiting room in a pretrial detention facility opened in Pavlodar.

Incidents of self-mutilation in prisons to protest conditions increased in frequency and severity during the latter part of the year. The Government reported that in the first 9 months of the year 41 incidents of self-mutilation occurred, 15 of which involved multiple prisoners. Authorities did not release statistics on similar incidents in pretrial detention facilities. On February 11, one prisoner reportedly died of a self-inflicted wound and 39 other prisoners mutilated themselves during the course of a riot at a prison in Taraz. On October 24, one prisoner, Andrey Pashkov, died as a result of a self-inflicted wound and 60 other prisoners mutilated themselves to protest the severe beatings that they reported receiving for months at the Arkylyk maximum security prison. In general, the Government responded to incidents of self-mutilation by insisting that prisoners had simply been demanding unreasonable rights or not following the legitimate rules of the institutions in which they were held.

In September, prisoners held at a maximum security colony in Astana began rioting, and relatives reported that scores of MVD officers entered the facility to restore order and severely beat prisoners. Several of the prisoners attempted suicide as a consequence. In one case, the administration of the facility reportedly refused to call an ambulance. The prison warden did not permit reporters entry into the prison and denied the riot and attempted suicides. Later, the head of the prison system confirmed a suicide attempt and told reporters that an investigation would be launched. By year's end, there was no evidence that authorities conducted a serious investigation, and the Government brought no charges. The prison administration reported that it took unspecified disciplinary actions.

Although there is no known statutory requirement, human rights observers and journalists wishing to visit prisons must receive authorization; observers and journalists reported that authorities increasingly denied such requests. The MVD usually denied access to pretrial detention centers. The Kazakhstan International Bureau for Human Rights and Rule of Law visited men's, women's, and juveniles' facilities during the year, although they also reported that their requests were denied more often in the second half of the year.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention remained problems. In February, the Chairman of the Constitutional Council stated that 3,788 groundless arrests were recorded in 2002.

The KNB also play a law enforcement role in border security, internal security, and anti-terrorism efforts and oversee the external intelligence service, Barlau. The Chairman of the KNB reports directly to the President. The Minister of Interior supervises the national police force, who were poorly paid and widely believed to be corrupt. However, a new Minister of Interior, appointed in September, took steps that had an impact on corruption, particularly among traffic and migration police. The Minister assigned high-salaried Internal Security officers in the capital and in all regional police stations around the country and set up widely publicized phone numbers for citizens to call to report complaints about police.

Government officials acknowledged the seriousness of the problem of police abuse and undertook some efforts to combat it, for example, by punishing violators through the criminal justice system. According to the Government, during the first 9 months of the year, courts considered 41 criminal cases, involving 63 law enforcement officers, for violations of citizens' rights. Of those cases, 19 law enforcement officers were convicted, with sentences ranging from fines to imprisonment. Human rights observers believed that these cases covered only a small fraction of the incidents of police abuse of detainees, which they characterized as routine. Training standards and pay for police were very low, and individual law enforcement officials often were supervised poorly. Minimum pay for law

enforcement during the year was \$40 (5,600 Tenge) per month, while average salaries were \$130 (18,288 Tenge). Law enforcement officers noted in 2001 that beatings by officials were common in pretrial detention facilities (see Section 1.d.).

The Constitution provides that arrests and detentions may occur only with the sanction of a court or a prosecutor. Human rights observers alleged that police routinely failed to register the name of a person arrested in order to extend the maximum 72-hour period that a person could be held without the approval of the prosecutor.

The Constitution also provides that every person detained, arrested, or accused of committing a crime has the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation (see Section 1.e.). Police were not required under the law or in practice to inform detainees that they had the right to an attorney. Human rights observers alleged that law enforcement officials dissuaded detainees from seeing an attorney or gathered evidence through preliminary questioning before the person's attorney arrived and the formal interrogation began.

A bail system exists but was rarely used, and individuals generally remained in pretrial detention until their trial. According to the Government, 45 persons were released on bail during the first 9 months of the year, a slightly lower figure than in the previous 2 years.

The Government arrested and detained government opponents and critics, sometimes for minor infractions of the law such as unsanctioned assembly, and selectively prosecuted political opponents (see Sections 1.e., 2.a., and 2.b.).

On January 28, the Karasay district court in Almaty Oblast convicted journalist Sergey Duvanov on a rape charge and sentenced him to 3½ years in prison, on charges that observers considered politically motivated and after a trial with serious procedural irregularities (see Sections 1.e. and 2.a.).

On September 11, the Government filed tax evasion charges against the leader of the Republican National People's Party (RNPK), Amirzhan Kosanov (see Sections 1.e. and 3). On October 13, a district court in Almaty convicted him and gave him a 1-year suspended sentence and fine of approximately \$2,670 (374,000 Tenge). Kosanov appealed the verdict, but the appeal had not been heard by year's end. The charges were the latest in a pattern of harassment and politically motivated charges against him.

In November, Yermurat Bapi, the editor of SolDat, a newspaper affiliated with RNPK, was separately convicted of tax evasion (see Sections 1.e. and 2.a.). The Government opened 16 lawsuits against Bapi during his editorship of SolDat. On January 13, tax police filed forgery charges against him, which were later dismissed, and the Government also brought tax evasion charges against him and the newspaper in 2002.

There were credible reports of arbitrary detention of members of the political opposition (see Section 1.e.).

In the summer of 2002, the Government tried and convicted two founding members of the Democratic Choice for Kazakhstan (DVK) movement, Mukhtar Ablyazov, former Minister of Energy, and Galymzhan Zhakiyanov, former Akim (Governor) of Pavlodar Oblast (see Sections 1.e. and 3). Their arrests came years after the alleged crimes (abuse of power and corruption) were committed, but only months after Ablyazov and Zhakiyanov founded an opposition political movement. The Government maintained that their prosecutions were simply an effort to punish corrupt officials. However, on May 17, the Supreme Court found former Minister of Transport and Communications, Ablay Myrzakhmetov, guilty of stealing approximately \$8.2 million (1.15 billion Tenge) of state funds. Although the monetary value of the alleged crime was far higher than in either Zhakiyanov's or Ablyazov's case, Myrzakhmetov received a 5-year suspended sentence and 3 years' probation.

Police reportedly often detained foreigners without official charges, sometimes mistreating them. The Kyrgyz press reported that police held 500 Kyrgyz, Uzbek, and Tajik citizens accused of illegal migration in jail for 4 days without food and deported them, with police firing into the air to force them to leave.

In July, authorities released on parole Oleg Okhulkov, a lawyer known to provide legal assistance to opposition figures who was held in pretrial detention for 16 months before being convicted in 2002 for fraud in connection with a civil suit. The Supreme Court turned down his appeal of his conviction on December 26.

The law sanctions pretrial detention. The Constitution allows police to hold a detainee for 72 hours before bringing charges. The Criminal Procedure Code allows continued detention for much longer periods with the approval of the Prosecutor General; lower-ranking prosecutors may approve interim extensions of detention. The Criminal

Procedure Code allows persons to be held for up to 1 year in pretrial detention facilities after they have been charged while awaiting trial, with the sanction of the prosecutor. There were no reports that authorities detained suspects longer than the legal limits, although individuals could still be held for weeks or months.

The number of persons in pretrial detention facilities continued to decline during the year. Fewer than 10,000 were held in pretrial detention centers during the year, a reduction of several thousand from previous years. Local human rights NGOs reported that authorities generally denied them access to pretrial detention facilities.

The Constitution prohibits forced exile, and the Government did not employ it.

e. Denial of Fair Public Trial

The court system's independence was compromised by legislative, administrative, and constitutional arrangements that in practice subjugate the judiciary to the executive branch of government. In 2002, new legislation covering the authority of prosecutors went into effect, further undermining the independence of the judiciary. The new law grants a quasi-judicial role to the Prosecutor General by, among other provisions, allowing him and his deputies to suspend court decisions. There was no time period specified for referral to the court for a retrial.

Corruption was evident at every stage and level of the judicial process. Lawyers and human rights monitors alleged that judges, prosecutors, and other officials solicited bribes in exchange for favorable rulings in nearly all criminal cases. Nonetheless, judges were among the most highly paid government employees. District court judges earned approximately \$325 (45,540 Tenge) per month and oblast court judges earned almost \$550 (75,900 Tenge) per month; Supreme Court judges could earn more than twice that amount. In 2002, according to the Supreme Court, nine judges were charged with bribery and abuse of office, four of whom were convicted.

There are three levels in the court system: District, oblast, and the Supreme Court. District courts are the court of first instance in nearly all criminal cases. Oblast courts hear cases involving more serious crimes--those that carry a possible death penalty--and may handle cases in rural areas where no local courts were organized. Judgments of the district courts may be appealed to the oblast courts, while those of the latter may be appealed to the Supreme Court. There are also military courts.

According to the Constitution, the President proposes nominees for the Supreme Court to the upper house of Parliament (the Senate) through the Supreme Judicial Council, which includes the Chairman of the Constitutional Council, the Chairman of the Supreme Court, the Prosecutor General, the Minister of Justice, senators, judges, and other persons appointed by the President. The President appoints oblast judges (nominated by the Supreme Judicial Council) and local level judges from a list presented by the MOJ. The list was based on recommendations from the Qualification Collegium of Justice, an institution made up of deputies from the lower house of Parliament (the Mazhilis), judges, public prosecutors, legal experts, and MOJ officials. The President appoints the Collegium chairman.

The law provides for life appointment of judges, although in practice this means until mandatory retirement at age 65. A 2000 law establishes procedures to remove judges and specifies that the Chairman of the Supreme Court can initiate disciplinary cases against judges; Oblast Court Chairmen may initiate the procedure for judges within an oblast. Judicial collegiums review the cases and can recommend dismissal. Presidential decrees make dismissal decisions, except in cases of members of the Supreme Court, for whom the Senate must confirm a presidential proposal for dismissal. The law lists the grounds for which a removal action can be taken.

The Constitution provides for the Constitutional Council to rule on election and referendum challenges, to interpret the Constitution, and to determine the constitutionality of laws adopted by Parliament. The President directly appoints three of its seven members, including the chairman, and has the right of veto over Council decisions. The Council can overturn a presidential veto if at least two-thirds (five) of its members vote to do so. Therefore, at least one presidential appointee must vote to overturn the President's veto for the Council to overrule the President. Citizens do not have the right to appeal to the Council regarding the constitutionality of government actions, although they were allowed to make such appeals to the former Constitutional Court. Under the Constitution, only the President, Chairman of the Senate, Chairman of the Mazhilis, Prime Minister, one-fifth of the M.P.s, or a court of law may appeal to the Constitutional Council. The Constitution states that a court shall appeal to the Council if it "finds that a law or other regulatory legal act subject to application undermined the rights and liberties of an individual and a citizen."

The Constitution and the law establish the necessary procedures for a fair trial; however, trials often were not fair in practice. Trials were public with the exception of instances in which an open hearing could result in state secrets

being divulged, or when the private life or personal family concerns of a citizen had to be protected. However, there were several reports during the year of journalists being denied access to open court hearings. The Constitution provides defendants the right to counsel and requires the Government to provide an attorney free of charge for those who cannot afford one. However, there was no system of public defenders, and as a consequence, lawyers were reluctant to take state-assigned cases when the Government often did not provide payment for their services. An MOJ official acknowledged in a November interview that defense attorneys participated in only half of all criminal cases, although he added that the Government was taking steps to improve the situation, including through the allocation of more than \$1.2 million (174 million Tenge) during the year to pay defense attorneys.

The Constitution also provides defendants the right to be present at their trials, to be heard in court, and to call witnesses for the defense. Defendants enjoy a presumption of innocence, are protected from self-incrimination, and have the right to appeal a decision to a higher court. Legal proceedings were conducted in the state language, Kazakh, although Russian may also be used officially in the courts. Proceedings also may be held in the language of the majority of the population in a particular area. Although these language rights were generally respected, courts favored the prosecution over the defense in most other procedural matters.

At the Supreme Court's annual meeting on February 14, the Court announced that 130 verdicts by lower courts were found to be invalid in 2002. In January, the Chairman of the Supreme Court stated that more than half of the Supreme Court's reversals of verdicts were based on the inadequacy of the evidence presented in court. He also complained that lower courts convicted defendants despite procedural violations during the proceedings. He added that oblast courts were increasingly failing to reverse incorrectly decided lower court verdicts.

During the October trial of RNP leader Amirzhan Kosanov, the judge did not compel key defense witnesses to appear, and the prosecution did not provide an accounting of the alleged tax liability (see Sections 1.d. and 3).

On March 11, on appeal by both the defense and prosecution, the Almaty Oblast Court affirmed the 3½ year prison term of the journalist Sergey Duvanov but changed the charge to the rape of a minor (see Section 2.a.). At the sentencing, the presiding judge noted procedural violations during the trial. Independent legal experts, at the behest of the OSCE Chairman-in-Office, concluded that the trial had included serious procedural violations, that there was insufficient evidence for a conviction, and that the defense's theory of government entrapment had not been disproven. In December 2002, the President publicly declared that Duvanov was guilty, denying him the right to the presumption of innocence and harming his chances for a fair trial. In July, the collegium of the oblast court refused to send the case back to either the oblast or the district court to investigate possible procedural violations. On October 22, the Supreme Court refused to consider Duvanov's appeal, insisting that proper procedures were followed throughout the investigation and the trial. On December 29, a court ordered Duvanov's release on parole; according to parole procedures, he was first transferred on December 30 to a light regime facility, where he remained in custody at year's end. A further appeal of the criminal charge remained pending at year's end.

Both domestic and international observers at the 2002 trials of political opponents Galymzhan Zhakiyanov and Mukhtar Ablyazov reported that both the judicial process and the judges themselves, particularly in the case of Zhakiyanov, heavily favored the State's case (see Sections 1.d. and 3). The judges applied the force of subpoena during the trials only to prosecution witnesses, and many of the witnesses, primarily government officials, stated during testimony in court that they had been intimidated during the investigation by the threat of legal action. Many witnesses also contradicted in court their testimony during the investigations. The judges denied most motions filed by the defense.

At year's end, Zhakiyanov remained in a prison facility in Kostanay Oblast. He appealed for a presidential pardon in August; however, the pardon committee announced in October that it had suspended consideration of his pardon pending the investigation of possible new corruption charges that the Government claimed had only just then surfaced. Ablyazov was released from prison on May 13 after applying for a presidential pardon the month before. At a press conference the day after his release, Ablyazov announced that he would devote his time to his businesses and refrain from active participation in politics. President Nazarbayev had stated before the Zhakiyanov and Ablyazov trials that he would consider exercising his constitutional power of pardon should the courts find them guilty and should they ask him for it.

There were no other reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions; however, the Government at times infringed on these rights. The

Constitution provides that citizens have the right to confidentiality of personal deposits and savings, correspondence, telephone conversations, postal, telegraph, and other messages; however, laws allow prosecutors to approve limitations of these rights when they are necessary for investigative purposes. Courts may hear an appeal on such decisions by prosecutors, but cannot issue an immediate injunction to cease the limitation of rights.

The law provides prosecutors with great authority to limit citizens' constitutional rights. The KNB, Ministry of Interior, Financial Police, and other agencies, with the concurrence of the Prosecutor General's Office, maintained their authority under the new law to infringe on the secrecy of writings, telephone conversations, telegraphic communications, and postal dispatches, as well as the inviolability of the home. The new law expanded that list to include access to confidential bank records, the freezing of bank assets, and explicit authorization to record conversations secretly and to wiretap and record communications by telephone and other devices. The Criminal Procedure Code continues to allow for investigative measures affecting the legally protected secrecy of telephonic conversations without a prosecutor's warrant only in certain urgent cases; in such cases, the Prosecutor is to be notified of the interception of conversations within 24 hours. The new law adds the explicit definition of methods.

On occasion, government opponents reported that the Government monitored their movements and telephone calls. After a court found opposition activist Nurbulat Masanov guilty of slander in 2002 based on comments on a tape originating from an alleged wiretap on his cellular phone, and ordered him to pay a fine and publish an apology, a criminal contempt case was opened against him for failure to fulfill the sentence. In July, the case was closed even though Masanov did not pay the fine and did not publish an apology.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution and the Media Law provide for freedom of speech and of the press; however, observers reported that after the Government eliminated most media outlets willing to directly criticize the President in 2002 through a variety of means, including criminal and administrative charges, physical attacks, and vandalism, these events continued to have a chilling effect on journalists, most of whom practiced self-censorship. Judicial actions against journalists and media outlets continued during the year, including civil suits filed by government officials, and contributed to journalistic caution.

According to government statistics, there were 947 privately owned newspapers and 380 privately owned magazines, compared with 841 and 319, respectively, in 2002. The Government ran one of the two national Russian-language newspapers and the only national Kazakh-language newspaper that appeared as many as five times a week. In addition, members of the President's family were believed to control a number of privately owned media. Many newspapers that nominally were independent, particularly Kazakh-language print media, received government subsidies. Each major city had at least one independent weekly newspaper. The centrist opposition Ak Zhol political party continued to publish two national weeklies during the year. The Government continued to be in a strong position to influence most printing and distribution facilities and to subsidize periodicals, including many that supposedly were independent. In addition, many publishing houses were government-owned.

The Government controlled nearly all broadcast transmission facilities. There were 101 independent television and 35 radio stations, compared with 77 and 35, respectively, in 2002. Only three combined radio and television companies could broadcast nationwide; of these, one was completely government-owned, one was 50 percent government-owned, and one was nominally independent. Regional governments own several frequencies; however, independent broadcasters have arranged with local governments to use the majority of these. There were several electronic media organizations, including the Association of Independent Electronic Media of Central Asia and the National Association of Broadcasters.

The extent of government influence over mass media was not clearly defined. Many media outlets considered to be independent were controlled by holding companies that did not make public the names of their controlling investors. Most independent observers believed that members of the President's family and close circle of friends controlled all of the large media outlets through holding companies. However, according to government statistics, there were 1,915 mass media and information agencies in the country as of October, nearly 80 percent of which were privately owned. Officially, the national Government completely controlled only one Kazakh-language newspaper, one Russian language newspaper, one national radio and television station, and one news agency.

The 2001 Media Law amendments limit the rebroadcast of foreign-produced programming by imposing a

graduated reduction in rebroadcast of foreign programming: 50 percent beginning January 2002 and 20 percent by the beginning of the year. No media outlets were sanctioned under this provision during the year, although several were in 2002 under the more lenient requirement.

The Media Law reaffirms the constitutional provision for free speech and prohibits censorship; however, the law enabled the Government to restrict media content. For example, amendments enacted in 2001 codify the constitutional prohibition on the mass media from undermining state security or advocating class, social, race, national, or religious superiority or "a cult of cruelty and violence." The amendments also establish that owners, editors, distributors, and journalists may be held civilly and criminally responsible for content, regardless of the source of information, unless it came from an official source. The law also prohibits violence and all pornography from television broadcasts; and it requires all media to register with the Government, although websites were exempted from this requirement. During the year, there was wide public debate on the Government's proposal for a new Media Law. The draft law was submitted to Parliament on August 26. Parliament's lower house proposed hundreds of changes to the draft law, and then passed a modified version of the law on December 25; the Senate had taken no action on the law by year's end. Both international organizations and a wide range of local NGOs and professional associations maintained that the Government's draft would further restrict media freedom and would not meet OSCE commitments.

The Government did not permit individuals to criticize the country's leadership, and regional leaders increasingly sought ways to limit local media outlets' criticism of them. The Constitution provides for the protection of the dignity of the President, and the law prohibits insulting the President and other senior officials.

From July to October 2002, independent journalist Sergey Duvanov was the subject of an investigation under a section of the Criminal Code that prohibits insulting the honor and dignity of the President (see Section 1.d.). The investigation stemmed from a May 2002 article Duvanov had published on an opposition website criticizing the President. The article also referred to allegations of corruption by the President that had appeared elsewhere. No charges were formally filed as a result of this investigation. Duvanov was also the victim of an August 2002 attack by three unknown persons, who carved a cross and several other marks on his chest and allegedly told him that he was aware of why they were attacking him. President Nazarbayev denounced this attack, calling it a provocation. No arrests were made in the case by year's end. On January 28, a court convicted Sergey Duvanov on a rape charge and sentenced him to 3½ years' imprisonment, after a trial with serious procedural irregularities (see Section 1.e.). Duvanov remained in custody at year's end, although he was transferred to a light regime facility on December 30. International organizations and human rights groups were critical of the rape charge and pressed the Government to honor Duvanov's right to due process. Media outlets and journalists viewed the series of events that befell Duvanov as evidence of the risk inherent in criticizing the President.

In 2002, almost all media outlets willing to criticize the President directly were either closed, intimidated, or the subjects of law enforcement actions and/or civil suits. While these events continued to cast a chilling effect on all media outlets, criticism by national media outlets of almost all of the national Government's policies was reported during the year. Those outlets critical of the President that remained during the year continued to be the subjects of harassment and judicial actions.

On June 3, the Almaty city Court rejected a complaint by the Assandi Times that the Ministry of Information repeatedly rejected the registration of the newspaper's owner on frivolous grounds. The company of the newspaper's previous owner had been liquidated by a court ruling on January 21. On July 2, police in Rudniy (Kostanay Oblast) detained a distributor of the Assandi Times and Soz newspapers, informing him that they were illegal. The Assandi Times had the same editorial staff as two other opposition newspapers: Respublika and Ekonomika, Finansy i Rynki. The newspaper continued to change its name to avoid what it termed illegal judgments against it. In May 2002, a court ruling liquidated Respublika's parent company, PR Consulting. In 2002, following Respublika's publication of articles cataloging allegations of corruption against the President and his circle, the newspaper and its editor, Irina Petrushova, were subjected to an intense campaign of intimidation, including a decapitated dog with an attached threatening note left at the newspaper and a dog's head with another note left at Petrushova's home. In May 2002, Respublika's Almaty offices were firebombed; authorities announced in July 2002 that one of the newspaper's cofounders had masterminded the attack. Petrushova was convicted of licensing violations in July 2002, although her prison term was suspended.

In August, the Almaty city court convicted Sharip Kurakbayev, editor of the opposition Soz newspaper, of covering political issues, which prosecutors had charged violated the newspaper's charter. The court fined Kurakbayev nearly \$125 (17,440 Tenge) and ruled that the newspaper print runs of May 7 and May 14 be confiscated.

In September, police seized copies of Ekonomika, Finansy i Rynki from a private printing house in Almaty, although they had no authority to do so. Some journalists alleged that the KNB or tax police threaten publishing houses if

they print opposition media; concern over criminal or civil proceedings influenced publishing houses. In February and March 2002, Respublika newspaper could not find printing presses in Almaty and Astana to publish it, after it had given extensive coverage to a convention of an opposition political movement (DVK). The Al Zhayik printing house in Atyrau that printed the newspaper of the same name, as well as other newspapers in the oblast, was firebombed in May 2002. Police arrested a suspect, who confessed that he accidentally firebombed the newspaper while intoxicated. In late March, the Atyrau City Court convicted him and sentenced him to 2 years in prison and ordered him to receive treatment for alcoholism.

On November 17, an Almaty district court convicted Yermurat Bapi, editor-in-chief of the opposition newspaper SolDat and a member of the executive committee of the RNPk, of tax evasion and barred him from practicing journalism for 5 years. The Almaty Financial Police and Tax Committee filed the charges against the newspaper in April, announcing that it had failed to pay approximately \$480,000 (67.5 million Tenge) in taxes, although the assessment was lowered when the case came to trial. On April 28, an Almaty district court ruled against the newspaper in a libel lawsuit filed by an M.P. and awarded the M.P. \$10,700 (1.5 million Tenge). On May 22, the Almaty City Court increased the amount of that judgment to \$28,500 (4 million Tenge), forcing the newspaper to close. In May 2002, the Almaty offices of the newspaper were attacked, resulting in the theft of equipment and the hospitalization of one of SolDat's employees. In 2001, an Almaty district court convicted Bapi of insulting the honor and dignity of the President for two articles printed in SolDat in 2000.

The law establishes that the amount of time television and radio stations broadcast in the state language (Kazakh) must not be less than the sum of the quantity of transmissions in other languages. The Ministry of Information (which was established during the year after the reorganization of the Ministry of Culture, Information, and Public Accord) monitored compliance with this requirement, to be enforced from the beginning of 2002. The Ministry did not sanction violators during the year, but had done so in 2002 with 6-month license suspensions.

Officials used the law's restrictive libel and defamation provisions to force media outlets to refrain from publishing information deemed unflattering. Both the Criminal and Civil Codes contain articles establishing broad libel liability. Owners, editors, distributors, and journalists were held responsible for the content of information conveyed and had the burden of proving its veracity, regardless of its source, which promoted self-censorship at each level. At times, fines for libel were exorbitant and bankrupted small media outlets. Publishing houses, which also were responsible legally for the information that they publish, were reluctant to publish anything that influential officials might perceive as undesirable. Senior-level officials initiated several of these judicial actions.

In May, Rakhat Aliyev, the President's son-in-law and the country's ambassador to Austria and the OSCE, filed a defamation suit for an April 25 article published in the Assandi Times that speculated about Aliyev's possible future government positions. On July 1, an Almaty district court awarded Aliyev approximately \$2,140 (300,000 Tenge), although he had sought \$71,400 (10 million Tenge) as compensation for moral damage. In 2002, Aliyev sued the Navigator website and the NGO Internews for libel. Navigator had published an article in September 2002 speculating that Aliyev was plotting to seize power. On January 15, the Almalinskiy district court in Almaty ruled in favor of Aliyev; the judge awarded him \$2,140 (300,000 Tenge), even though the website had already published a retraction. On February 27, the Almaty City court upheld the ruling. Internews published a story in 2001 in its web-based bulletin repeating allegations that Aliyev and his wife, Dariga Nazarbayeva (the President's daughter), controlled several TV and radio networks in the country. In August 2002, Internews was forced to publish a retraction when it lost its case, and exhausted its appeals.

On December 23, an Almaty court began hearing a criminal libel case against journalist Genadiy Benditskiy of the national newspaper Vremya. The charges were based on a complaint by former Minister of Energy Asygat Zhabagin, who objected to two articles Vremya published in November. The articles alleged that the organization that Zhabagin headed held bank accounts containing approximately \$1.5 million (2.15 million Tenge) in state funds that had been allocated for another purpose. No decision on the criminal case was reached by year's end.

Freedom of speech groups claimed that actions against regional news outlets increased during the year. In February, a police officer in Kostanay filed a defamation lawsuit against KTK Television reporter Yuriy Khalikov for a comment he allegedly made on air. In March, a Kostanay court ruled in favor of the state gas company in another libel case against Khalikov. In April, police took Khalikov to a psychiatric institution and released him after 1 hour. On April 21, the oblast Governor (Akim) held a press conference to deny that Khalikov was singled out for official harassment and called for libel cases to be settled out of court. Khalikov and his police officer accuser settled their libel case out of court in September.

In June, multiple court rulings against Vesti Pavlodara forced the newspaper to close. Pavlodar police filed one of the libel lawsuits for a 2002 article on the case of Kanat Tusupbekov of Irbis Television. The winning candidate in the December 2002 parliamentary by-election filed a second libel lawsuit (see Section 3).

In September, 34 bailiffs filed civil suits against the Taraz (Zhambyl Oblast) newspaper Noviy Region for an article that they alleged had criticized their work.

Media outlets generally practiced self-censorship regarding information on the President and his family to avoid possible legal problems. The section of the Criminal Code that prohibits insulting the honor and dignity of the President remained on the books, although it was not used since an investigation of independent journalist Sergey Duvanov began in July 2002 and after the President pronounced it unnecessary in August 2002. Most media did not report the story, which had been widely reported internationally, about foreign investigations into possible illicit payments from abroad to senior government officials, including President Nazarbayev. Local media outlets, when they did report on the case, informally dubbed it Kazakhgate.

The State Secrets Law establishes a list of government secrets, the release of which is proscribed in the Criminal Code. For example, the law defines certain foreign policy information as secret if disclosure of this information might lead to diplomatic complications for one of the parties. The list of state secrets enumerated in the law includes all information about the health, financial, and private life of the President and his family. Also defined as state secrets is economic information such as the volumes of national mineral reserves and the amount of government debt owed to foreign creditors.

The Media Law defines websites based in the country as media outlets. During the year, the content of websites was material in libel lawsuits and criminal charges. The Government periodically blocked clients of the two largest Internet providers, Kaztelecom and Nursat, from direct access to several opposition websites, including Evrasia, Navigator, and Kub, although access was still available through anonymous proxy servers.

The Government generally did not restrict academic freedom; however, as was the case for journalists, academics could not violate certain restrictions, such as criticizing the President and his family.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly; however, the Government and the law impose significant restrictions on this right. The Law on National Security defines as a threat to national security unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes that upset social and political stability.

Under the law, organizations must apply to the local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance, or the activity is considered illegal. In some cases, local officials routinely issued necessary permits; however, opposition and human rights monitors complained that complicated procedures and the 10-day notification period made it difficult for all groups to organize public meetings and demonstrations. They also reported that local authorities, especially those outside Almaty, turned down most applications for demonstrations in central locations. During the year, certain religious groups were denied permits for conventions or large public gatherings. Organizers of unsanctioned gatherings, including religious gatherings, frequently were detained briefly and often fined (see Section 2.c.).

On May 14, police detained 58 participants in an unsanctioned rally in the town of Kentau in Southern Kazakhstan Oblast. Court proceedings were held against 18 of the 58. The judge reportedly did not allow any of the 18 to present a defense and fined each of the 18.

The Constitution provides for freedom of association; however, the Government and the law imposed significant restrictions on this right. Any public organization set up by citizens must be registered with the MOJ, which also has branches in each of the oblasts. Participation in activities of non-registered public organizations can result in administrative or even criminal liability. Membership organizations, such as religious groups and many others, must have 10 members and establish branches in more than half of the oblasts (there were 14 oblasts; Almaty and Astana cities were special administrative districts with the status of oblast, making 16 such districts in all) for national registration. Registration at the local level required a minimum of 10 members. Political parties and labor unions were considered membership organizations, but each had specific registration requirements established by legislation. The Political Parties Law requires parties to have 50,000 members, including 700 in each oblast.

The law does not clearly define nonmembership organizations, generally NGOs, as a group. Different laws define different categories, including noncommercial organizations and public associations. The Government put forward a draft law during the year that would have defined an NGO as an organization that works for the public good and does not engage in political activity. NGOs almost universally spoke out against the draft, and the Government withdrew it in October. The Government also created a Civic Forum of NGOs during the year, which some viewed

as an attempt to increase government control over NGOs.

A registration fee of approximately \$115 (16,460 Tenge) was required for both membership and nonmembership organizations; half that amount was required for reregistration, which became necessary if the organization changed its charter, its address, or its leadership. Most organizations had to hire lawyers or other consultants to expedite their registrations through the bureaucracy, which increased the registration cost considerably. Some groups considered these costs to be a deterrent to registration. Government regulations provide that registration be granted within 15 days; however, local NGOs reported that registration often took 1 month to a year because the Government may return applications for additional information or require investigations into certain portions of the application. The registration of some religious groups took much longer than 1 year (see Section 2.c.).

Authorities often did not object to the existence of groups that were not formally registered as organizations. However, the prohibition on unregistered organizations could provide the pretext for authorities to interfere with the activities of organizations to which they objected. In July, a district court in Aktybinsk Oblast fined Yerbolat Satybaldy approximately \$31 (4,360 Tenge) for establishing an illegal public association. Human rights organizations maintained that the organization had existed for several years, and that it became of interest to authorities only after it began to advocate against the new Land Law (see Section 3).

The 2002 Political Parties Law requires that all parties registered at the time of its enactment complete a reregistration process early in the year. Many of the 19 parties registered at that time of the law's passage did not meet these new requirements, while others decided not to attempt reregistration. By year's end, 8 of the 19 parties previously registered had successfully reregistered. On December 19, a new party, Asar, led by the President's eldest daughter, became the ninth and final party to be registered by the MOJ during the year. The law prohibits political parties established on an ethnic, gender, or religious basis; parties established on a religious basis are specifically prohibited by the Constitution. Three political parties officially reregistered by the end of 2002; eight more attempted to reregister in January and February, four of which were successful. In February, the MOJ rejected the other four parties' applications for reregistration. Although the applications were rejected on technical grounds, three of the four parties also appeared to violate another of the law's restrictions: Alash was a Kazakh ethnic nationalist party; the Compatriot Party was known as the Russian Party until July 2002; and Yel Dana was the Democratic Party of Women until October 2002. The head of the Revival Party formed a new party, Rukhaniyat (Spirituality), which the MOJ formally registered in October. Three opposition parties (RNPK, Azamat, and the People's Congress of Kazakhstan) announced in September 2002 that they would merge and also that they would boycott the new law.

Joining a political party requires members to provide personal information, including date and place of birth, address, and place of employment. For many citizens, the requirement to submit such personal data to the Government tended to inhibit them from joining political parties. There were credible allegations that persons entering government service were required to join the pro-presidential Otan party, and one report that students at a state university were being similarly compelled.

The Constitution prohibits public associations, including political parties, whose goals or actions were directed at a violent change of the Constitutional system, violation of the integrity of the republic, undermining of the security of the state or fanning of social, racial, national, religious, class, and tribal enmity. The major religious and ethnic groups had independently functioning cultural centers.

The Constitution prohibits membership in trade unions or political parties and actions in support of political parties to members of the armed forces, employees of national security and law enforcement organizations, and judges. The Constitution prohibits foreign political parties and foreign trade unions from operating, as well as the financing of political parties and trade unions by foreign legal entities and citizens, foreign states, and international organizations (see Section 6.a.).

c. Freedom of Religion

The Constitution provides for freedom of religion, and the various religious communities worshiped largely without government interference; however, local officials attempted on occasion to limit the practice of religion by some nontraditional groups. The intervention of higher-level officials or courts often corrected such attempts. The Constitution defines the country as a secular state. While the Government unsuccessfully sought on several occasions to amend the National Religion Law to give the Muslim Spiritual Association (a national Muslim organization) a quasi-official role, both the Government and the association denied that there was any official connection between them.

In contrast to laws governing other public associations, the National Religion Law does not explicitly require religious organizations to register with the Government (see Section 2.b.). It states that all persons are free to practice their religion alone or together with others. Because the clause makes no reference to registration, legal experts interpret it as ensuring the right of members of unregistered groups to practice their religion. However, it does specify that religious organizations must register to receive legal status. Religious organizations must have legal status to buy or rent real property, hire employees, or engage in other legal transactions.

The administrative code allows national and local authorities to suspend the activities or fine the leaders of unregistered religious organizations, although legal experts disagreed on whether it supercedes the National Religion Law on the obligation of religious groups to register. Government officials also had varying interpretations of the discrepancy between the administrative code and the Religion Law. Lower courts cited the administrative code in sanctioning religious organizations for nonregistration, but fewer cases were brought under this charge during the year due to the number of such decisions overturned on appeal. One religious rights activist estimated that more than 80 percent of cases brought on the administrative code violations were dismissed by prosecutors, lower courts, or on appeal.

In practice, local officials, particularly in remote locations, often insisted that religious organizations register at the local level, despite the fact that registration at the national or the oblast level legally was sufficient to obtain the rights that registration offers. Although the law specifies a maximum of 30 days for authorities to complete the registration process, some religious groups reported delays of several months or years.

During the year, the Government dropped criminal cases and did not fulfill court orders that would have compelled congregations affiliated with the Council of Churches of Evangelical Christians and Baptists to register. The Council has a policy of not seeking or accepting registration in former Soviet countries.

The national Jehovah's Witnesses Religious Center reported that it has attempted unsuccessfully to register in Northern Kazakhstan Oblast since 1997. In November 2002, a city court in Petropavlovsk ruled in favor of Jehovah's Witnesses regarding registration in the North of the country; however, the local branch of the MOJ did not implement the court order by year's end. In April, the MOJ ordered its Northern Kazakhstan Oblast branch to register the group; however, it did not do so by year's end. In April, Atyrau Oblast authorities formally turned down the 2001 registration application by Jehovah's Witnesses; the group resubmitted it in November. The group is already formally registered nationally and in the country's other 12 oblasts.

In May, police in the Zharminskiy region of Eastern Kazakhstan Oblast opened a criminal case against Baptist pastor Sergey Nizhegorodtsev, who was charged with nonpayment of a fine levied on him in February 2002 by a district court for failure to register his congregation. On May 28, prosecutors dropped the case, agreeing with his assertion that the 2002 court decision had been illegal.

Followers of the Hare Krishna movement faced continued police harassment during the year. In one instance, a follower from a neighboring country was ordered deported by a district court on July 19; however, the same court reversed the deportation order several days later. Police also raided a Krishna commune in an Almaty Oblast district on November 2 and reportedly confiscated two foreign members' passports (see Section 2.d.). Krishna followers said that prosecutors returned the passports two days later. The movement's followers also reported ongoing negative coverage in the press.

The President and other senior officials continued to regard with concern the presence of what they consider religious extremism; however, unlike in previous years, none of them has publicly discussed the issue of registration of religious groups during the year. In November, the Government announced that it would draw up a list of banned organizations, and that Hizb ut-Tahrir would be included on it. The KNB subsequently acknowledged that no legal authority existed to ban organizations for alleged extremist activities. Authorities reported an increasing number of incidents during the year of Hizb ut-Tahrir activity in the country. There were approximately one dozen known detentions of alleged members, and one occasion when the security service shut down an alleged Hizb ut-Tahrir printing press in the South of the country and arrested three individuals they claimed were operating it. Formal charges were filed against them, but their cases had not come to trial by year's end.

On July 7, a district court in Almaty convicted two alleged members of Hizb ut-Tahrir, Asan Shegibayev and Baurzhan Kultayev, and sentenced them to 3 years in prison. They were charged with participating in the activities of an illegal organization and inciting social, national, tribal, race, or religious hatred. Both defendants denied belonging to Hizb ut-Tahrir and maintained that the KNB fabricated the evidence of their membership. Religious rights activists maintained that the law provides no basis for declaring Hizb ut-Tahrir an illegal organization. On August 19, the Almaty city court denied their appeal.

Other than the brief detentions of a New Life Church missionary in the southern town of Arys in March and approximately one dozen alleged Hizb ut-Tahrir members during the year, and the arrests of three alleged Hizb ut-Tahrir members in October, there were no reports of religious prisoners or detainees.

Law enforcement authorities conducted inspections of religious groups throughout the country, claiming the right to do so as a means of preventing the development of religious extremism and ensuring that religious groups pay taxes. These inspections also provided the authorities with information about the registration status of the groups being inspected. There were no reports during the year of authorities suspending the activities of unregistered groups, pending their registration, as there had been in previous years.

Local KNB officials disrupted some meetings in private homes of unregistered groups of Jehovah's Witnesses, Adventists, Baptists, and other Protestants, as well as other nontraditional groups throughout the country.

The national Jehovah's Witnesses Religious Center alleged continuing incidents of harassment by a number of local governments. It claimed that city officials in Kostanay, Karaganda, Aktubinsk, Petropavlovsk, Atyrau, Kokshetau, Pavlodar, Semipalatinsk, and Taraz sometimes blocked the group from renting stadiums or other large public or private sites for religious meetings. However, the Center also reported that such denials were inconsistent and that officials in these and other jurisdictions have at times granted such permits.

The Government exempted registered religious organizations from taxes on church collections and income from certain religious activities. The Government donated buildings and provided other assistance for the construction of new mosques, synagogues, and Russian Orthodox churches.

The law does not prohibit foreign missionary activity. On July 17, the Government published a new regulation intended to standardize the procedures for local authorities to use to register missionaries; however, the regulation was unclear on whether missionaries were required to register. There were no reports of officials requiring missionaries to register since the passage of the regulation.

The Government invited the leaders of the two largest religions, Islam and Russian Orthodoxy, to participate jointly in some state events. The leaders of the Catholic and Jewish religions, which were represented by small proportions of the population, also participated in some official events. Leaders of other faiths, including Baptists, Adventists, and other nontraditional groups, have at times also participated in some events; events organized by the city administration in Almaty exclude no religions. In February and September, President Nazarbayev convened international conferences promoting harmonious relations and dialogue among religious groups. In each of these conferences, delegations from numerous countries and religious groups participated.

There existed general wariness within the population, particularly in rural areas, of nontraditional religions.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides the right to those who were legally present in the country to move freely in its territory and freely choose a place of residence except in cases stipulated by law; however, in practice, citizens were required to register to prove legal residence and obtain city services. Registration in most of the country generally was routine, but it was difficult to register in Almaty and Astana due to their relative affluence and local officials' fears of overcrowding. Persons who were suspects in criminal investigations were often required to sign statements that they would not leave their place of residence. Many individuals were detained for identity checks without suspicion of a criminal offense (see Section 1.d.).

Although the Government formally abolished the exit visa requirement for temporary travel of citizens in 2001, there remained certain instances in which exit from the country could be denied, including if there were pending criminal or civil legal proceedings, unserved prison sentences, evasion of duty as determined by a court of law, presentation of false documentation during the exit process, and travel by active-duty military. In September, authorities denied the requests of Yermurat Bapi and Amirzhan Kosanov to travel to Poland, where they were to testify at a major international conference on the human rights situation in the country (see Sections 1.d. and 2.a.). Both had previously signed letters agreeing not to leave the country because of pending criminal cases before them. The Law on National Security requires that persons who had access to state secrets obtain permission from their employing government agency for temporary exit from the country.

The Constitution provides for the right to emigrate and the right to repatriate, and the Government generally respected these rights in practice; however, the Law on National Security prohibits persons who had access to state secrets from taking up permanent residence abroad for 5 years after leaving government service. A permanent exit visa still was required for emigrants and required criminal checks, documents from every creditor stating that the applicant had no outstanding debts, and letters from any close relatives with a claim to support giving their concurrence to the exit visa. There was one reported instance in 2002 of an individual being denied an emigrant exit visa for failing to document the continued support of dependents. Many individuals reported that without the assistance of a travel agency, obtaining permanent exit visas could take several months. Citizens have the right to change citizenship but were not permitted to hold dual citizenship.

Foreigners were required to have exit visas, although they received them routinely as part of their entry visa. Foreigners who overstayed their original visas, or who did not receive exit visas as part of their original visas, were required to get exit visas from the immigration authorities before leaving. Foreign visitors were required to register, depending on their circumstances, either with the immigration officials who admit them at the airport or with the local migration police (often referred to as OVIR, after the office that formerly had this function). Foreigners no longer were required to register in every city they visit; one registration was sufficient for travel throughout the country. Immigration authorities occasionally fined foreigners without proof of registration before allowing them to leave the country. Foreigners were required to obtain prior permission to travel to the country.

Foreigners were required to obtain prior permission to travel to some border areas with China and cities in close proximity to military installations. The Government continued to declare the following areas closed to foreigners until at least 2006 due to their proximity to military bases and the space launch center: Gvardeyskiy village, Rossavel village, and Kulzhabashy railway station in Zhambyl Oblast; Bokeyorda and Zhangaly districts in Western Kazakhstan Oblast; the town of Priozersk and Gulshad village in Karaganda Oblast; and Baykonur, Karmakshy, and Kazakly districts in Kyzyl Orda Oblast. However, foreigners could visit these areas with prior permission from the MVD.

The Government accorded special treatment to ethnic Kazakhs and their families who fled during Stalin's era and wished to return. Kazakhs in this category were entitled in principle to citizenship and many other privileges. Other persons, including ethnic Kazakhs who were not considered refugees from the Stalin era, such as the descendants of Kazakhs who moved to Mongolia during the 19th century, had to apply for permission to return. It was government policy to encourage and assist all ethnic Kazakhs living outside the country to return; returnees were known as Oralmans. Since independence approximately 215,000 ethnic Kazakhs, mostly from other former Soviet republics, Iran, Afghanistan, Mongolia, Turkey, China, and Saudi Arabia have immigrated. In 2001, the Government introduced a quota for Oralmans that allowed 600 families to return annually. The Government helped provide these families with housing, stipends, and other benefits. The number of Oralmans in 2001 far exceeded the 600-family quota. As a result, the quota for 2002 was increased to 2,665 families and during the year was increased again to 5,000 families. However, even under the higher quotas, the number of immigrants continued to far exceed the quota. The Government struggled to find resources for integration programs for those who arrived outside the quota, many of whom lived in squalid settings. International organizations and local NGOs assisted in these efforts, and the Government supported them. On October 31, a presidential decree established a quota of 10,000 for 2004. The Government had previously announced that the quota for 2005 would be 15,000.

Oralmans were automatically eligible for citizenship; however, the prohibition on dual citizenship prevented many of them from receiving it immediately. Amendments to the Citizenship Law in 2002 streamlined the acquisition of citizenship. Complicated procedures to renounce the citizenship of one's former country no longer delayed the process; the migration police simply turned in a new citizen's passport to the embassy of their former country at the conclusion of the citizenship process, which took 6 months on average. The Government made significant progress in granting citizenship before the implementation of the new procedure. There were reports that the Government did not always extend the benefits for which Oralman are eligible to family members who were not of ethnic Kazakh origin. An international NGO reported that unskilled Oralmans who returned faced discrimination in work and housing.

The law provides for the granting of asylum or refugee to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the absence of legislation to fully implement the Convention left unclear many aspects of the status of refugees, such as whether they had a right to work. In practice, the Government provided some protection against refoulement and granted refugee status, but not asylum. Following the passage of a 1997 Migration Law and the creation of the Agency for Migration and Demography, the Government began in 1998 to register asylum seekers and to determine their status, in consultation with the U.N. High Commissioner for Refugees (UNHCR).

The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting

refugees. The Government allowed the UNHCR access to detained foreigners and in practice was generally tolerant in its treatment of local refugee populations, except for citizens from former Soviet republics. Migrants from former Soviet republics were not considered to be refugees because they could ostensibly travel and settle freely within the Confederation of Independent States (CIS). The Government often did not allow refugees without passports or those who had entered the country illegally to register; in practice, it restricted registration almost exclusively to refugees from Afghanistan. All non-CIS citizens were considered to be intending immigrants. The Government generally respected the right of other CIS citizens to settle in the country; however, in practice, it frequently did not extend this right to laborers from other Central Asian republics. As the country's economic growth continued to outpace that of most of its neighbors, it increasingly attracted economic migrants. The Government struggled to deal with the increases, and periodically engaged in heavy-handed campaigns to round up noncitizens in technical violation of migration procedures. According to a U.N. reporting agency, the Government deported large numbers of migrants each month.

The Agency for Migration integrated the UNHCR and a local NGO, Kazakhstan Refugee Legal Support, into the process of reviewing refugee claims. Only the President can grant political asylum, and he did not do so during the year. Nonpolitical asylum claims could theoretically be processed anywhere in the country, after the Agency for Migration established a national refugee determination committee in Astana during the year; however, in practice, claims continued to be processed only in Almaty. By November, the UNHCR estimated that there were less than 16,500 refugees in the country, including 13,700 Chechens from Russia and 2,500 from Afghanistan. The remainder included Palestinians and Uighurs from China, among others.

The Government provides temporary protection for certain categories of refugees, including some Afghan refugees. Beginning with the renewal of conflict in Chechnya in 1999, a large population of Chechens fleeing the fighting came to the country; most remained during the year. Many Chechens had also entered the country during the earlier Chechen conflict and returned to Chechnya at its conclusion. Consistent with the Minsk Convention on Migration within the CIS, the Government did not recognize Chechens as refugees; however, the Government, in cooperation with the UNHCR and Chechen organizations, did grant temporary legal resident status to Chechens until they could return home to safe conditions. Despite reports that some Chechens had to pay bribes to receive registration, this arrangement functioned effectively until October 2002, when Chechen terrorist groups held civilians hostage in a Moscow theater, and the Government stopped its nationwide policy of issuing temporary residence permits to Chechens. By March, the Migration Police reported that more than 300 Chechens had received deportation orders by courts. The same month, the Government established a new temporary registration procedure; however, reports persisted that Chechens did not have the same access to registration as others. Officials frequently remarked that Chechens as a group were criminals and that they harbored terrorists, although according to the UNCHR, women and children comprised as much as 80 percent of the temporary Chechen population.

In 1999, the country agreed with China not to tolerate the presence of ethnic separatists from one country on the territory of the other. Human rights monitors were concerned with the impact of this agreement on Uighurs from China in the country, although there were no reports of Uighurs forcibly returned to China during the year. The Government did not consider any asylum claims by Uighurs; it was unlikely that any Uighurs applied. The Government allowed the UNHCR to resettle some Uighur refugees to other countries during the year.

There were no confirmed reports that the Government forcibly returned persons to a country where they feared persecution. However, it was unclear whether any of the more than 300 Chechens ordered deported since October 2002 were forcibly returned to Russia, although many were known to have departed the country. It was also unclear how many more Chechens were ordered deported after March, when the Government stopped providing statistics on deportations. There were several occasions during the year and in 2002, when the Government complied with its international refugee obligations when faced with the choice of deporting political activists from other former Soviet republics. In such cases, the Government allowed international organizations access to the refugees and to arrange for their transportation to third countries. There were no reports of deportations without a court order during the year.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for a democratic government with universal suffrage for those more than 18 years of age; however, in practice, the Government severely limited the right of citizens to change their government.

The Constitution concentrates power in the presidency, granting the President considerable control over the legislature, judiciary, and local government. The President appoints and dismisses the Prime Minister and the Cabinet. His appointment of the Prime Minister, but not of cabinet members, is subject to parliamentary consent. Presidential appointments of the Prosecutor General and the KNB Chief require the consent of the Senate. The

President has the power to dismiss Parliament and to appoint judges and senior court officials. The President also nominates for approval by the Mazhilis (Parliament's lower house) the chairman and members of the Central Election Commission (CEC), who oversee presidential and parliamentary elections. The Mazhilis has never failed to confirm a presidential nomination. Modifying or amending the Constitution effectively requires the President's consent. On August 27, the President stated publicly that "all discussions and ideas about changes to the Constitution come from the Devil."

In September and October, elections for Maslikhats (oblast- and local-level councils) were held nationwide. Independent observers reported that opposition candidates were disadvantaged, although the CEC and the local election commissions attempted to project the appearance of fairness, such as equal access to airtime and flexible interpretations of election rules to register some candidates. In Almaty, none of the candidates of a prominent opposition bloc was elected. Many observers blamed the electoral legislation, as it allowed opposition candidates to be excluded in some areas for technical reasons. Independent observers also recorded numerous violations of procedures on the first- and second-round election days, particularly that an unprecedented number of voters were turned away from their long-time polling stations.

President Nazarbayev was elected to a 7-year term in a 1999 election that was held nearly 2 years earlier than scheduled and fell far short of international standards. The Government imposed onerous requirements on candidates for the 1999 presidential ballot, including requiring them to submit petitions with 170,000 signatures, pass a Kazakh-language test, and make a nonrefundable payment of approximately \$30,000 (2.4 million Tenge). Less than a week after the presidential election was called, the Government disqualified a number of potential contenders on the basis of a provision of the presidential decree on elections that prohibits persons convicted of administrative offenses from running for public office within 1 year of their conviction. Five opposition leaders, including former Prime Minister Kazhegeldin, were summoned and tried for participating in a nonregistered organization. A sixth was disqualified for a previous conviction. The Supreme Court upheld the disqualifications.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) concluded that the presidential election fell far short of international standards, citing in particular the exclusion of candidates, the short duration of the election campaign, obstacles to free assembly and association, the use of government resources to support President Nazarbayev's campaign, unequal access to the media, and the flawed presidential decree that served as the election law.

Although in many ways an improvement over the presidential election, the 1999 elections for the Mazhilis were marred by election law deficiencies, executive branch interference, and a lack of transparent vote counts. There was convincing evidence of government manipulation of results in some cases. ODIHR concluded that they were a tentative step toward democracy but fell short of OSCE commitments.

In 1998, the President and the Parliament passed, without prior public notice, a series of constitutional amendments enabling them to call early presidential elections. Among other changes, the amendments extended the presidential term of office from 5 to 7 years and removed the 65-year age limit on government service. (The President will be 65 years of age before the end of his 7-year term.) Government opponents and international observers criticized the short-notice elections because they did not leave time for the Government to implement promised electoral reforms or for candidates to organize effective campaigns.

Numerous violations and serious irregularities marred the December 2002 Parliamentary by-elections for three vacant seats in the Mazhilis from single-mandate districts in Karaganda, Atyrau, and Pavlodar Oblasts; preliminary results of the elections conflicted with independent exit polling. Violations of the electoral law included registration of candidates, composition of election commissions, intimidation of election monitors, relocation of polling stations with little or no notice to voters, and manipulation of voter lists. In one of the contests, an opposition candidate had been excluded from the ballot hours before the polls opened. The CEC released the official results in January, showing government-favored candidates winning all three seats. In two races, independent exit polling showed that the margin of victory was inflated for the winning candidate. In the third, exit polls showed Karlygash Zhakiyanova--the wife of imprisoned former oblast akim Galymzhan Zhakiyanov--receiving more than half the votes, although Maksimonko was declared the winner (see Section 1.e.).

Changes and amendments to the Election Law were the subject of intense public debate throughout the year. On November 27, the Government submitted its draft of the new law to Parliament. The CEC, the primary drafter of the government draft of the law, worked in close cooperation with ODIHR throughout the year. However, according to ODIHR's analysis, the government draft did not meet OSCE commitments, including the composition of electoral commissions and the lack of a clear mechanism for resolving disputes among candidates or violations by candidates of the law. ODIHR's recommended changes were not adopted in the November revisions. The leading opposition parties and movements also published a joint statement noting significant flaws in the government draft

and calling for revisions. Parliament established a joint Senate-Mazhilis working group to propose changes to the Government's draft that was continuing its deliberations at year's end.

Parliament exercised little oversight over the executive branch, although it has the constitutional authority to remove government ministers and to hold a no-confidence vote in the Government. The Government may also instigate a no-confidence vote, as it did in May in response to parliamentary revisions to the draft Land Law it had submitted. Although a majority voted against the Government, Parliament failed to achieve the required two-thirds of votes to dismiss the Government. Although Parliament must approve the state budget, the Constitution precludes Parliament from increasing state spending or decreasing state revenues without executive branch approval. Nearly all laws passed by Parliament originated in the executive branch. The executive branch controls the budget for Parliament's operations; it has not provided funds for M.P.s to hire staff, a situation generally viewed as decreasing Parliament's effectiveness. The executive branch also blocked legislation on establishing Parliamentary staff; the law was found unconstitutional because Parliament may not make additions to the state budget.

If Parliament fails to consider within 30 days a bill designated urgent by the President, the President can issue the bill by decree. Although the President has never resorted to this authority, it gave him additional leverage with Parliament. While the President has broad powers to dissolve Parliament, Parliament can remove the President only for disability or high treason, and only with the consent of the Constitutional Council, of which the President appoints three of seven members (see Section 1.e.).

Many activities of Parliament remained outside public view. During the year, Parliament continued to become more open by publishing some draft laws, some parliamentary debates, and in some instances, its voting record. After Parliament failed to get its changes included into the Land Law, a group of 16 deputies from both houses of Parliament asked the President to initiate a referendum on private land ownership, which the President refused to do. During the year, a group of parliamentary deputies called on the Government to explain its role in the Kazakhgate indictments (see Section 2.a.). The Government responded to the request, which was published on Parliament's website. No news media covered the response.

According to the Constitution, the President selects oblast akims (governors) based on the recommendation of the Prime Minister; they serve at the discretion of the President, who may annul their decisions. The oblast akims then appoint the county-level equivalent and city leaders below them. The Constitution permits direct election of such officials and in 2001 experimental local district akim (county-level equivalent leader) elections were held, representing the first tentative movement away from appointment of local district akims. In each of the 14 oblasts, elections were held to fill 2 positions. The local akims were elected by secret ballot by a group of electors chosen by local residents through a public show-of-hands vote. The OSCE noted that the procedure violated international standards requiring a secret ballot and did not provide transparency while counting and registering election results.

The introduction of 10 proportionally allocated Mazhilis seats for the 1999 parliamentary elections enhanced the role of political parties, which, with the exception of the Communist Party, were previously very weak. The Communist Party and three pro-presidential parties--Otan (Fatherland), the Civic Party, and the Agrarian Party--shared the 10 new party-list seats in the 1999 parliamentary election. After the 2002 law on political parties required all parties to reregister, only 8 of the 19 previously registered parties successfully reregistered by year's end (see Section 2.b.).

The Government restricted the functioning of the political opposition. One opposition group, the DVK movement, was founded in 2001 by 11 senior government leaders, M.P.s, and prominent businessmen. Four of the senior government officials were fired several days after the founding at the request of the Prime Minister, and in December 2001 parliamentary deputy Bulat Abilov was expelled from his party slate seat in Parliament. During the year, the DVK was unable to register successfully with the MOJ as a public association, although it had received nationwide registration in January 2002. Two of DVK's leaders were convicted and imprisoned in 2002 (see Section 1.e.). One remained imprisoned at year's end, while the other was pardoned by the President and freed in May. At a press conference after his release, he announced that he would focus on business rather than politics. Many DVK activists presumed that a condition of his pardon was to refrain from active involvement in politics.

A political party, Ak Zhol, split off from DVK in 2002; it was granted formal registration under the restrictive new Law on Political Parties in December 2002 (see Section 2.b.).

The Government tried and convicted other opposition politicians during the year (see Section 1.e.).

The Communist party alleged several incidents of harassment during its drive to reregister under the Law on

Political Parties (see Section 2.b.). In January, five members of the party reported that police detained them after they left a party meeting in Almaty. The national leader of the party alleged in February that detentions of local party leaders were occurring throughout the country, and that police had confiscated party lists in some locations. He further alleged that law enforcement officials had attempted to induce party members into signing statements saying they had been forced to join the party.

At year's end, three women held ministerial portfolios. There were no female oblast akims. Of 39 Senate members, 3 were female; 8 of 77 Mazhilis members were female. There were no legal restrictions on the participation of women and minorities in politics; however, the persistence of traditional attitudes meant that few women held high office or played active parts in political life.

Although minority ethnic groups were represented in the Government, ethnic Kazakhs held the majority of leadership positions. According to official statistics, non-Kazakhs accounted for 44 percent of the population (see Section 5). Ethnic minorities held 1 of 3 deputy prime minister positions and headed 1 of 16 government ministries and the national bank. Non-Kazakhs were underrepresented in Parliament, with only 8 senators and 20 members of the Mazhilis.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, some human rights observers reported that the Government monitored their movements and telephone calls (see Section 1.f.). Human Rights Watch reported that harassment included intimidating police visits and arbitrary tax investigations, in addition to surveillance. Many NGOs publicly advocated during the year that the Government withdraw its draft law on NGOs, which they believed would severely restrict their right to operate. The Government withdrew the draft in October (see Section 2.b.).

The Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR) and the Almaty Helsinki Commission were the most active of a small number of local nongovernmental human rights organizations. They cooperated with each other on human rights and legal reform issues. Although these groups operated largely without government interference, limited financial means hampered their ability to monitor and report human rights violations. Some human rights observers periodically received threatening or harassing telephone calls; however, the source of these calls was unknown.

The Director of the KIBHR, Evgeniy Zhovtis, reported that a package of what appeared to be marijuana was placed in his car on May 2, the eve of his planned participation in an international conference. Zhovtis said that he immediately reported the incident to Almaty police, but that they refused to pursue an investigation after determining that the substance was not in fact marijuana.

In general, the Government showed greater willingness to focus on abuses highlighted by human rights monitors and individual citizens in the criminal justice system and to investigate allegations of corruption. The Government tended to deny or ignore charges of specific human rights abuses that were levied by both international and domestic human rights monitors and by individual citizens, although it often acknowledged that human rights abuses existed in general.

The Civil Code requires NGOs to register with the Government, and most NGOs were registered (see Section 2.b.); however, some continued to operate without legal standing.

The Government permitted international and foreign NGOs and multilateral institutions dealing with human rights to visit the country and meet with local human rights groups as well as government officials. The International Labor Organization (ILO), the International Federation of Red Cross and Red Crescent Societies, the UNHCR, the International Organization for Migration (IOM), and the OSCE, have permanent offices in the country.

The Presidential Commission on Human Rights was a 15-member consultative and advisory body that included members from the public. A March 19 presidential decree redefined the Commission's duties, making it responsible for coordinating governmental responses to human rights concerns instead of investigating individual complaints from citizens. The Commission also monitored fulfillment of international human rights conventions. On November 17, the country signed the U.N. Covenants on Civil and Political Rights; and Economic, Social, and Cultural Rights, and the Commission was given the responsibility for implementing them.

The Human Rights Ombudsman is responsible for investigating complaints by citizens of violations of their rights, although the Ombudsman was not authorized to investigate any complaint dealing with the President, Parliament, the Government, the Constitutional Council, the Prosecutor General, the CEC, or the courts. In June, the Ombudsman reported that he received a complaint from the wife of imprisoned opposition politician Galymzhan Zhakiyanov (see Section 1.e.). He stated he turned down the complaint, since his institution had no authority to challenge court verdicts. During the year, the Ombudsman gave regular briefings to the press and reported receiving a total of 758 complaints in the first three quarters of the year. The Ombudsman reported that the majority of complaints were economic or social in nature, such as nonpayment of benefits or salaries and housing conditions; it also received complaints relating to conditions of military service, education, abuses by investigative authorities, and nonenactment of court decisions. NGOs believed that the Ombudsman was influenced by the Government and downplayed cases.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution states that everyone is equal before law and court and that no one may be subjected to any discrimination for reasons of origin, social position, occupation, property status, sex, race, nationality, language, convictions, place of residence, or any other circumstances; however, the Government did not enforce this provision effectively on a consistent basis. The Government favored ethnic Kazakhs in government employment and, according to many citizens, in the process of privatizing state enterprises.

Women

Violence against women, including domestic violence, was a problem. The MVD stated in November that domestic rape incidents increased each year for the past several years. In the capital, Astana, police reported that there were 931 crimes against women in the first 10 months of the year, including 10 killings and 40 violent rapes. Nationwide, according to independent statistics, 534 women were killed in 2002 as a result of domestic violence, 54 in Almaty, the largest city. In Astana, 6 women on average appealed to police as a result of violence each day during the year. In June, the National Commission on Women and Family reported that 64 percent of women have been victims of violent crime. A 2002 MVD survey found that 52 percent of women had reported some form of domestic abuse, with the highest incidence in rural areas, and only 30 percent of domestic violence cases were prosecuted. NGO activists and prison officials stated that domestic violence was a significant factor in the majority of cases of women serving sentences for murder.

There is no specific law on domestic violence; however, it can be addressed under assault and battery provisions of the Criminal Code. The maximum sentence for wife beating is 10 years in prison, the same as for any beating. The punishment for rape ranges from 3 to 15 years imprisonment. The Government reported that it opened 1,650 criminal rape cases in 2002, of which 1,095 were prosecuted and 1,040 convictions were obtained. Police often were reluctant to intervene in domestic disputes, considering them to be the family's business, unless they believed that the abuse was life threatening. Under the Criminal Procedure Code, prosecutors can not initiate a rape case, absent aggravating circumstances such as gang rape, unless the victim files a complaint. There were unconfirmed reports that prosecutors sometimes interpreted this provision to require rape victims to pay for forensic testing, pay the expenses of prosecution, and prosecute rape cases personally. Police also cannot detain a suspect legally for more than 72 hours unless the victim provides a written complaint, which women often refused to do. The press rarely reported on rape.

One Almaty crisis center (there were three, two of which operated shelters) reported that it received 100-150 calls from women per month for domestic violence, and that a very small percentage followed through with charges. No NGO operated a crisis center in Astana, the country's capital; however, the four-officer domestic violence unit of the city's police department reported receiving five to six calls a day from victims of domestic violence. Police indicated that victims of domestic violence often asked only for officers to talk with their spouses. When victims did decide to press charges for domestic violence or rape, police sometimes tried to persuade them not to pursue it. There were domestic violence units within police departments of all cities, which cooperated with the crisis centers, and most cities had crisis centers. When domestic violence cases did come to trial, the charge was most often for light beating, the penalties for which include fines of up to \$535 (82,300 Tenge) or 3 months' imprisonment. The Government reported that in 2002 police had registered 2,710 domestic violence crimes, of which 2,307 were referred to courts. In 2002, 1,000 persons (including 152 women) were convicted for domestic violence crimes.

Prostitution is not prohibited by law and is not legally regulated; however, forced prostitution or prostitution connected to organized crime is illegal. Prostitution was a serious problem.

Trafficking in women remained a problem (see Section 6.f.).

The Criminal Code and the Labor Code prohibit only some forms of sexual harassment, and legal and gender-issue experts regarded the legislation as inadequate to address the problem. The Government did not show any interest in improving legislation to prevent sexual harassment. There were reports of such harassment, but none of those reports constituted situations where victims were protected under the law. Prosecutors, law enforcement agencies, and victims were generally not aware of the problem, and there were no reports of any cases being prosecuted.

The law prohibits discrimination against women, but traditional cultural practices limited their role in society and in owning and managing businesses or property. The President and other members of the Government spoke in favor of women's rights, and the official state policy held that constitutional prohibitions on sex discrimination must be supported by effective government measures; however, women were underrepresented severely in senior positions in state enterprises and overrepresented in low-paying and some menial jobs. The head of the National Commission on Women and Family noted that women's salaries were, on average, 62 percent that of men's. Women had unrestricted access to higher education.

There were approximately 150 women's rights organizations registered in the country. These included the Feminist League, Women of the East, the Almaty Women's Information Center, the Union of Crisis Centers, and the Businesswomen's Association.

Children

The Government was committed to children's rights and a new Children's Rights Law was enacted in August 2002; however, budget limitations and other priorities severely limited the Government's effectiveness in dealing with children's issues. The new law codifies many rights already contained in the Constitution and provides little in the way of funding or specific programs. Education is mandatory through age 16, although students could begin technical training after the ninth grade. Primary and secondary education was both free and universal. The law provides for equal access to education by both boys and girls.

There were reports of child abuse, although there was no societal pattern of such abuse. The Government has cooperated with UNICEF since 2000 on an educational program to combat child abuse.

Trafficking in girls was a problem (see Section 6.f.).

Rural children normally worked during harvests (see Section 6.d.).

There was one local NGO that worked with juveniles released from prisons.

Persons with Disabilities

Citizens with disabilities were entitled by law to government assistance, and the law prohibits discrimination against persons with disabilities; however, in practice, employers did not give them equal consideration. Assisting persons with disabilities was a low priority for the Government. Laws mandate the provision of accessibility to public buildings and commercial establishments for persons with disabilities; however, the Government did not enforce them. There have been some improvements to facilitate access in Almaty and Astana, such as wheelchair ramps.

Mentally ill and mentally retarded citizens could be committed to state-run institutions, which were poorly managed and inadequately funded. The NGO Kazakhstan International Bureau for Human Rights observed that the Government provided almost no care for persons with mental disabilities due to a lack of funds.

National/Racial/Ethnic Minorities

According to the Government, the population consisted of approximately 56 percent Kazakhs and 32 percent ethnic Slavs (Russians, Ukrainians, Belarusians, and others), with many other ethnic groups, including Uzbeks, Germans, Tatars, Uighurs, Koreans, Azeris, Turks, and others represented. Approximately 220,000 Uighurs lived in the country, comprising the largest Uighur diaspora outside of China. The Government continued to discriminate in favor of ethnic Kazakhs in senior government employment, where ethnic Kazakhs predominated. President Nazarbayev has emphasized publicly that all nationalities were welcome to participate; nonetheless, many non-Kazakhs remained concerned about what they perceived as expanding preferences for ethnic Kazakhs (see Section 3).

Most of the population spoke Russian and approximately half of all ethnic Kazakhs spoke Kazakh fluently. According to the Constitution, the Kazakh language is the official state language. The Constitution states that Russian may be used officially on an equal basis with Kazakh in organizations and bodies of local self-administration. The Government continued to move toward using Kazakh for official business. By year's end, Kazakh became or was the lingua franca in local law enforcement offices in all oblasts with majority Kazakh populations (Kyzyl Orda, Southern Kazakhstan, Zhambyl, Atyrau, and Aktobe). Police departments in the northern oblasts, several with majority ethnic Russian populations, planned to adopt Kazakh by the end of 2004. Most ethnic Russians believed that Russian should be designated as a second state language. The Government encouraged more education of children in the Kazakh language but did little to provide Kazakh-language education for adults. The Language Law was intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages; however, it has not been funded sufficiently to make Kazakh-language education universal.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Code provide for basic worker rights, including the right to organize; however, the Government at times infringed on these rights. The largest trade union association, the Federation of Trade Unions, contained the vestiges of formerly state-sponsored trade unions established during the Soviet period. It claimed a membership of 2 million workers. The Confederation of Free Trade Unions (CFTUK), formerly the Independent Trade Union Center of Kazakhstan, underwent a leadership change during the year and was unable to provide statistics on the size of its membership. In 2002, it reported 320,000 members. Many members of the CFTUK reportedly joined the Trade Union Center of Kazakhstan, which split from the Federation in 2002 and aligned itself with the former leader of the CFTUK during the year. Observers agreed that the Government exercised considerable influence over organized labor.

To obtain legal status, a trade union had to apply for registration with the MOJ. The registration procedure followed largely that of other membership organizations (see Section 2.b.); branches of unions were each required to register, which could be accomplished at MOJ branches in each oblast. In 2002, 20 new trade unions were registered, including the Trade Unions of Aviation Employees, the Trade Unions of Central Kazakhstani Small Businesses, and the Trade Unions of Astana. The Federation of Trade Unions, the Confederation of Free Trade Unions, and the Trade Union Center of Kazakhstan were all registered. The MOJ did not deny registration to any union during the year. Courts can cancel a union's registration; however, there were no such cases during the year.

The Constitution prohibits the operation of foreign trade unions and prohibits the financing of trade unions by foreign legal entities and citizens, foreign states, and international organizations. The CFTUK received financing from foreign sources because it was registered as a public association and not a labor union. The law does not prohibit other nonmonetary types of assistance such as training; participation in training programs increased in recent years.

Under the Constitution, workers are protected against anti-union discrimination. The Law on Trade Unions reiterates this right and makes no distinction between different kinds of labor unions. However, in practice, there were violations of this right. Members of some trade unions have been dismissed, transferred to lower paying or lower status jobs, threatened, and intimidated. The three trade union associations were competitive with one another and sometimes alleged that members of the other association were given precedence for layoffs.

By law, unions may freely join federations or confederations and affiliate with international bodies. The CFTUK joined the Worldwide Labor Union Organization in 2002.

In April 2002, the Federation of Trade Unions filed a complaint against the Government with the ILO Committee on Free Association alleging various violations involving freedom of association in connection with efforts to organize workers at the Tengizchevroil company. In November 2002, the Committee requested that the Government take actions that would allow workers at the company to organize in accordance with international rules. The Federation raised no further complaint by year's end.

b. The Right to Organize and Bargain Collectively

The law permits collective bargaining and collective agreements; however, collective bargaining was not widely understood and only occasionally practiced during the year. Unions may have a minimum of 10 members; however, registration requirements created obstacles to organization. If a union's demands were not acceptable to management, it could present those demands to a tripartite commission, composed of the Government, employer

associations, and labor union representatives. The tripartite commission was instituted under the Law on Social Partnerships of 2000 and was to develop and sign a general agreement each year governing approximately 80 aspects of labor relations. The Labor Law provides for an individual contract between employers and each employee. Collective bargaining agreements were allowed as long as they did not reduce protections afforded to workers in individual contracts or under law; previously the terms of contracts were set only by law and collective bargaining agreements.

On January 27, the national tripartite commission signed a general agreement, which was intended to remain in effect until the end of 2004. The presidents of both the Federation of Trade Unions and the CFTUK, the major employer associations represented on the commission, and a Deputy Prime Minister signed the agreement.

The Law on Collective Bargaining and Strikes gives workers the right to join or form unions of their choosing. It also establishes that workers may request in writing to have their union dues paid by direct payroll deductions of 1 percent. Amendments to the Labor Law that went into force in 2000 stipulate that the consent of an employee's union is no longer required to fire a worker (the old Law on Trade Unions had required a union's consent to fire a worker). Employers increasingly used the new Labor Law to fire workers without a union's consent; however, the general agreement contained a provision limiting the proportion of a company's workforce that could be dismissed at once to 9 percent. The Labor Law requires advance notice of dismissal. An employee still could choose to be represented by a union in a labor dispute; however, the employee had the option of choosing other representation as well.

The Constitution provides for the right to strike; however, there was a list of enterprises where strikes were not permitted. Unions and individual workers exercised the right during the year, primarily to protest the nonpayment of wages and unsafe working conditions and to recover back wages. According to the law, workers may exercise the right to strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. In addition, the law requires that employers be notified that a strike is to occur no less than 15 days before it commences. According to the Ministry of Labor, the incidence of labor disputes declined significantly in recent years.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor

The Constitution and law prohibit forced and bonded labor, except at the sentence of the court or in the conditions of a state of emergency or martial law, but there were reports that such practices occurred (see Section 6.f.).

The Constitution prohibits forced or bonded labor by children; however, child labor was routinely used in agricultural areas (see Section 6.d.).

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum age for employment is 14 years, but only for part-time work (5 hours a day) that is not physically onerous. Children from the ages of 16 to 18 could work full-time provided that they are not required to do any heavy work. The Government has acknowledged that children in this age group worked in construction and other heavy industries but reported that duties for children were limited to washing windows, general cleaning, laying tile, and similar nonstrenuous activities.

A child between the ages of 14 and 16 can work only with the permission of his or her parents. The law stipulates harsh punishment for employers who exploit children under the age of 16. The Ministry of Labor is responsible for enforcement of child labor laws and for administrative offenses punishable by fines; the MVD is responsible for criminal offenses. Child labor was used routinely in agricultural areas, especially during harvest season; but abuse of child labor generally was not a problem.

e. Acceptable Conditions of Work

The Government set the monthly minimum wage at \$36 (5,000 Tenge), an increase from the \$30 (4,181 Tenge) minimum wage of 2002. The minimum wage was roughly equal to the monthly subsistence level of approximately \$35.50 (4,943 Tenge), as determined by the Government for October. The average monthly wage in the third quarter was nearly \$162 (22,487 Tenge), 13.6 percent higher than for the same period in 2002. In June, the Government increased the minimum monthly pension to approximately \$39.50 (5,500 Tenge). By mid-year, the average monthly pension rose to more than \$56 (7,823 Tenge) a month during the year, 38.3 percent higher than

in the beginning of the year. Growth in average wages has outpaced inflation, in many periods substantially so, since 1999.

The Labor Law stipulates that the workweek should not normally exceed 40 hours, but specifies no maximum for other than normal circumstances. The Law limits heavy manual labor or hazardous work to no more than 36 hours a week. The Labor Law requires overtime to be paid at a rate of not less than one-and-a-half times normal wages for hours worked in excess of the normal 40-hour week. The Labor Law requires that overtime not exceed 2 hours in a calendar day or 1 hour a day for heavy manual labor. Overtime is prohibited for work in hazardous conditions. The Constitution provides that labor agreements may stipulate the length of working time, vacation days, holidays, and paid annual leave for each worker.

The Ministry of Labor enforced minimum wages, work hour restrictions, and limits on overtime established under the Labor Law. Ministry labor inspectors conducted random inspections of employers to enforce all laws and regulations under their purview.

The Constitution provides for the right to "safe and hygienic working conditions;" however, working and safety conditions in the industrial sector were often substandard. Safety consciousness in both employees and employers was low. Workers in factories usually did not wear protective clothing, such as goggles and hard hats, and worked in conditions of poor visibility and ventilation.

Management largely ignored regulations concerning occupational health and safety, which were not well enforced by the Ministry of Labor. A Law on Safety and Protection of Labor passed Parliament's lower house in October, although it remained pending in the Senate at year's end. Several M.P.s criticized the draft when the Ministry of Labor introduced it in January, saying that the Ministry did not have enough labor inspectors and was unable to adequately enforce the Labor Code. In 2002, the Ministry reported a staff of 360 inspectors. Although the frequency of inspections remained insufficient to provide fully for occupational health and safety, the number of fines, penalties, and warnings to employers increased. According to a news report, 355 persons were killed due to unsafe working conditions in 2002. The Labor Law requires employers to suspend work where its continuation could endanger the life or health of workers and to warn workers about any harmful and dangerous work conditions and about the possibility of any occupational disease. The Chairman of the Constitutional Council stated at a February conference that there were 107,000 violations of labor legislation in 2002.

There were no reports of workers suffering physical or sexual abuse, although it is probable that limited employment opportunities contributed to the underreporting of abuses. There are no laws protecting workers who file complaints about work conditions.

Foreign workers (those legally present with labor permits) are provided the same minimum wages and labor standards as local workers under the law. Legal foreign labor is limited by a yearly quota of workers, which generally was filled by Turkish, Western European, and American workers in the oil industry. These highly skilled workers earned more on average than local workers and enjoyed work and living standards above local standards. Several foreign corporations reported difficulty in obtaining work permits for their expatriate workers, saying the Government favored local workers for the positions.

Labor laws do not cover illegal workers, who did not receive the same legal protections as those with permits. Illegal workers were generally unskilled migrant laborers from Uzbekistan, Kyrgyz Republic, and Tajikistan, who crossed into southern areas seeking agricultural or construction jobs. They frequently were paid considerably less than local workers and worked in substandard conditions. Law enforcement agencies periodically conducted campaigns to deport illegal workers; employers were often fined as well during such campaigns. Several hundred illegal laborers were deported during the year.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in persons remained a problem during the year. There was no evidence of a pattern of official complicity in trafficking, although corruption of law enforcement officials was widespread.

There are several articles of the Criminal Code that cover most forms of human trafficking. Article 128 criminalizes the recruitment of any person for sexual or other exploitation and was expanded in July to include all forms of trafficking. It is punishable by a maximum 2-year prison term. If a minor is involved, the maximum penalty is 5 years in prison. If the exploited person is transferred abroad, the maximum penalty is 8 years in prison. Article 330, added to the Code in 2002, also strengthened existing law. Article 330 prohibits the organization of illicit migration

by providing transportation or fraudulent documents, or residence or other services for the illicit entry, exit, or movement on the territory of the country. It also covers the operation of a tourist or excursion agency for the purpose of illicit migration. The Criminal Code (Article 133) also prohibits the sale of children.

Prosecutions under these articles of the Criminal Code were rare, despite the fact that the Law Enforcement Coordination Council (under the leadership of the Prosecutor General) issued detailed guidelines in August to law enforcement and prosecutors nationwide on how to investigate crimes under these sections of the Code. However, prosecutors reported that several investigations under these sections of the Code were ongoing in various parts of the country at year's end and that the Government brought formal charges under Section 128 of the Criminal Code in six cases. Several arrests were made in connection with these investigations, many of which were reported in the press.

Prosecutors also used other articles of the Criminal Code to charge suspects whose activities may have included trafficking, such as the illegal involvement in prostitution (Article 270), which carries punishment of up to 3 years in prison, and prostitution connected with organized crime (Article 271), punishable by up to 5 years in prison. Prosecutors often use Article 271, although it was difficult to estimate what percentage of investigations under Article 271 involved trafficking. Prostitution is not explicitly prohibited under the law, nor was it legally regulated. Under Article 125 of the Code, kidnapping is punishable by a prison term of up to 7 years. Several victims of trafficking lost a civil suit against a travel agency for breach of contract during the year. However, the civil trial led to the arrest of the woman who ran the travel agency, and criminal charges against her remained pending at year's end.

In August, the Government appointed the Minister of Justice to coordinate all of the Government's anti-trafficking activities and created an anti-trafficking Commission led by the Minister that included the Interior Minister, the KNB Chairman, the Prosecutor General, the Foreign Minister, Education Minister, and the Presidential Commission on Women and Family. The commission was in the process of developing a comprehensive National Plan to combat trafficking at the year's end. A lower-level working group, formed by the Government in 2001 with NGO participation, developed the trafficking legislation that was signed into law in July.

The Government maintained that it seeks cooperation from authorities in destination countries for its citizens who have been trafficked and in the source countries of trafficking victims brought into the country. During the year, the Foreign Ministry issued instructions to its Embassies abroad on assisting victims of trafficking. There was at least one report of an Embassy overseas assisting a trafficking victim. There were no cases where the Government has been asked to extradite a person charged with trafficking in another country.

The country was a source, transit, and destination country for victims of trafficking. Internal trafficking was also a problem. No reliable statistics were available on the number of victims each year, but some NGOs have estimated that there were several thousand. Individuals were trafficked to the United Arab Emirates, South Korea, Turkey, Greece, Cyprus, France, Italy, Portugal, Switzerland, Belgium, Israel, and Albania. They were trafficked from the Kyrgyz Republic, Uzbekistan, and Tajikistan.

Traffickers primarily targeted young women in their teens and 20s. According to the Kazakhstan Crisis Center for Women and Children, most women were recruited with promises of good jobs or marriage abroad. Travel, employment, and marriage agencies often recruited victims through advertisements promising lucrative jobs in other countries. Offers to participate in international beauty contests also were used. Previously trafficked women reportedly have recruited new victims personally. There was also evidence that young and middle-aged men have been trafficked from the country, either for sexual exploitation or for labor. Many trafficking victims appeared to be aware or at least to suspect that they were going to work as prostitutes, but not that they would be working under slavery-like conditions. Most trafficked persons traveled to their destinations on passports obtained abroad, most often from Russia or the Kyrgyz Republic.

There was no evidence of a pattern of official complicity with trafficking, although corruption of law enforcement officials was widespread.

The Government did not assist trafficked women who returned to the country; however, NGOs ran crisis support centers that provided legal and material assistance and counseling. Trafficking victims from other countries, if they had entered the country illegally, were fined and deported. There are no special provisions in the law to allow foreign victims of trafficking to be treated as anything but illegal migrants.

The IOM, in conjunction with 19 NGOs across the country, continued an information campaign on the dangers of trafficking and set up hotlines for its victims. The MOJ set up additional hotlines nationwide for trafficking victims to

report crimes and to receive information. The Ministry of Interior's Gender Crimes Division provided instruction to its units around the country on recognizing trafficking cases.

The Prosecutor General's Office enforced mandatory licensing for tourist agencies and conducted inspections throughout the year in an effort to uncover agencies involved in trafficking. Many of the criminal cases launched for trafficking crimes originated as a result of these inspections.

The Government began airing a series of public service announcements provided by international organizations in August. Some privately owned media outlets ran the series as well. The Government also produced its own public service announcements and ran them on official television stations in November and December. In most regions of the country, NGOs reported that local officials and law enforcement have been willing participants in training programs on trafficking and that officials have provided access to schools for the same purpose. The Government also supported training programs for judges and prosecutors on dealing with trafficking cases.